

SENATE BILL 167

E4
SB 511/09 – JPR

0lr1203

By: **Senators Lenett, Frosh, Madaleno, and Raskin**
Introduced and read first time: January 19, 2010
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms – Application for Dealer’s License – Record-Keeping and**
3 **Reporting Requirements**

4 FOR the purpose of requiring the Secretary of State Police or the Secretary’s designee
5 to disapprove an application for a State-regulated firearms dealer’s license if
6 the Secretary or the Secretary’s designee determines that the applicant intends
7 a certain person to participate or hold a certain interest in the management or
8 operation of the business for which the license is sought; requiring that the
9 Secretary or the Secretary’s designee suspend a dealer’s license if the licensee is
10 not in compliance with certain record-keeping and reporting requirements;
11 requiring that a licensed dealer keep records of all receipts, sales, and other
12 dispositions of firearms affected in connection with the licensed dealer’s
13 business; requiring the Secretary or the Secretary’s designee to adopt certain
14 regulations specifying certain information; requiring that the records that
15 licensed dealers maintain include certain information; specifying certain
16 record-keeping requirements to be met when a firearms business is
17 discontinued; requiring that a licensee respond in a certain manner after receipt
18 of a letter from the Secretary or the Secretary’s designee requesting certain
19 information; prohibiting a licensee from using an unreported loss or theft of a
20 firearm as a defense in certain proceedings except under certain circumstances;
21 allowing the Secretary or the Secretary’s designee to inspect the inventory and
22 records of a licensed dealer under certain circumstances; providing certain
23 penalties; and generally relating to regulated firearms dealers and applicants
24 for a regulated firearms dealer’s license.

25 BY repealing and reenacting, without amendments,
26 Article – Public Safety
27 Section 5-101(a) and (s)
28 Annotated Code of Maryland
29 (2003 Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
 2 Article – Public Safety
 3 Section 5–110(a), 5–114(a), and 5–115
 4 Annotated Code of Maryland
 5 (2003 Volume and 2009 Supplement)

6 BY adding to
 7 Article – Public Safety
 8 Section 5–144
 9 Annotated Code of Maryland
 10 (2003 Volume and 2009 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Public Safety**

14 5–101.

15 (a) In this subtitle the following words have the meanings indicated.

16 (s) “Secretary” means the Secretary of State Police or the Secretary’s
 17 designee.

18 5–110.

19 (a) The Secretary shall disapprove an application for a dealer’s license if:

20 (1) the Secretary determines that the applicant supplied false
 21 information or made a false statement;

22 (2) the Secretary determines that the application is not properly
 23 completed; [or]

24 (3) the Secretary receives a written notification from the applicant’s
 25 licensed attending physician that the applicant suffers from a mental disorder and is a
 26 danger to the applicant or to another; **OR**

27 **(4) THE SECRETARY DETERMINES THAT THE APPLICANT INTENDS**
 28 **THAT A PERSON WHO IS NOT ELIGIBLE TO BE ISSUED A DEALER’S LICENSE OR**
 29 **WHOSE DEALER’S LICENSE HAS BEEN REVOKED OR SUSPENDED:**

30 **(I) WILL PARTICIPATE IN THE MANAGEMENT OR**
 31 **OPERATION OF THE BUSINESS FOR WHICH THE LICENSE IS SOUGHT; OR**

32 **(II) HOLDS A LEGAL OR EQUITABLE INTEREST IN THE**
 33 **BUSINESS FOR WHICH THE LICENSE IS SOUGHT.**

1 5-114.

2 (a) The Secretary shall suspend a dealer's license if the licensee:

3 (1) is under indictment for a crime of violence; [or]

4 (2) is arrested for a violation of this subtitle that prohibits the
5 purchase or possession of a regulated firearm; OR

6 **(3) IS NOT IN COMPLIANCE WITH THE RECORD-KEEPING AND**
7 **REPORTING REQUIREMENTS OF § 5-144 OF THIS SUBTITLE.**

8 5-115.

9 (a) (1) A person whose dealer's license is suspended or revoked **OR WHO**
10 **IS FINED FOR A VIOLATION OF THIS SUBTITLE** and who is aggrieved by the action
11 of the Secretary may request a hearing by writing to the Secretary within 30 days
12 after the Secretary forwards notice to the applicant under § 5-114(c) of this subtitle.

13 (2) The Secretary shall grant the hearing within 15 days after
14 receiving the request.

15 (b) The hearing shall be held in accordance with Title 10, Subtitle 2 of the
16 State Government Article.

17 **5-144.**

18 **(A) (1) A LICENSED DEALER SHALL KEEP RECORDS OF ALL**
19 **RECEIPTS, SALES, AND OTHER DISPOSITIONS OF FIREARMS AFFECTED IN**
20 **CONNECTION WITH THE LICENSED DEALER'S BUSINESS.**

21 **(2) THE SECRETARY SHALL ADOPT REGULATIONS SPECIFYING:**

22 **(I) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
23 **INFORMATION THAT THE RECORDS SHALL CONTAIN;**

24 **(II) THE TIME PERIOD FOR WHICH THE RECORDS ARE TO BE**
25 **KEPT; AND**

26 **(III) THE FORM IN WHICH THE RECORDS ARE TO BE KEPT.**

27 **(3) THE RECORDS SHALL INCLUDE:**

1 **(I) THE NAME AND ADDRESS OF EACH PERSON FROM WHOM**
2 **THE DEALER ACQUIRES A FIREARM AND TO WHOM THE DEALER SELLS OR**
3 **OTHERWISE DISPOSES OF A FIREARM;**

4 **(II) A PRECISE DESCRIPTION OF EACH FIREARM ACQUIRED,**
5 **SOLD, OR OTHERWISE DISPOSED OF; AND**

6 **(III) THE DATE OF EACH ACQUISITION, SALE, OR OTHER**
7 **DISPOSITION.**

8 **(4) THE SECRETARY MAY PROVIDE THAT RECORDS MAINTAINED**
9 **UNDER 18 U.S.C. § 923(G)(1)(A) MAY BE USED TO SATISFY THE REQUIREMENTS**
10 **OF THIS SECTION.**

11 **(B) (1) WHEN REQUIRED BY A LETTER ISSUED BY THE SECRETARY, A**
12 **LICENSEE SHALL SUBMIT TO THE SECRETARY THE INFORMATION REQUIRED TO**
13 **BE KEPT UNDER SUBSECTION (A) OF THIS SECTION FOR THE TIME PERIODS**
14 **SPECIFIED BY THE SECRETARY.**

15 **(2) THE SECRETARY SHALL DETERMINE THE FORM AND METHOD**
16 **BY WHICH THE RECORDS SHALL BE MAINTAINED.**

17 **(C) (1) WHEN A FIREARMS BUSINESS IS DISCONTINUED AND**
18 **SUCCEDED BY A NEW LICENSEE, THE RECORDS REQUIRED TO BE KEPT UNDER**
19 **THIS SECTION SHALL REFLECT THE BUSINESS DISCONTINUANCE AND**
20 **SUCCESSION AND SHALL BE DELIVERED TO THE SUCCESSOR LICENSEE.**

21 **(2) WHEN A FIREARMS BUSINESS IS DISCONTINUED ABSOLUTELY,**
22 **THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION SHALL REFLECT**
23 **THE BUSINESS DISCONTINUANCE AND SHALL BE DELIVERED TO THE**
24 **SECRETARY WITHIN 30 DAYS AFTER THE BUSINESS DISCONTINUANCE.**

25 **(D) (1) A LICENSEE SHALL RESPOND WITHIN 24 HOURS AFTER**
26 **RECEIPT OF A REQUEST FROM THE SECRETARY FOR INFORMATION CONTAINED**
27 **IN THE RECORDS REQUIRED TO BE KEPT UNDER THIS SECTION WHEN THE**
28 **INFORMATION IS REQUESTED IN CONNECTION WITH A BONA FIDE CRIMINAL**
29 **INVESTIGATION.**

30 **(2) THE INFORMATION REQUESTED UNDER THIS SUBSECTION**
31 **SHALL BE PROVIDED ORALLY OR IN WRITING, AS REQUIRED BY THE**
32 **SECRETARY.**

33 **(3) THE SECRETARY SHALL IMPLEMENT A SYSTEM BY WHICH A**
34 **LICENSEE CAN POSITIVELY ESTABLISH THAT A PERSON REQUESTING**

1 INFORMATION BY TELEPHONE IS AUTHORIZED BY THE SECRETARY TO REQUEST
2 THE INFORMATION.

3 (E) A LICENSEE MAY NOT RAISE THE FACT THAT A FIREARM WAS LOST
4 OR STOLEN AS A DEFENSE IN ANY CRIMINAL PROCEEDING, LICENSE
5 REVOCATION OR DENIAL HEARING, OR IN ANY JUDICIAL REVIEW UNLESS THE
6 LICENSEE REPORTED THAT THE FIREARM WAS LOST OR STOLEN TO A LAW
7 ENFORCEMENT AGENCY WITHIN 2 BUSINESS DAYS OF:

8 (1) THE LICENSEE ACTUALLY DISCOVERING THE LOSS OR THEFT
9 OF THE FIREARM; OR

10 (2) AN INVENTORY BY THE LICENSEE PURSUANT TO A REGULAR
11 INVENTORY PRACTICE BY WHICH A FULL INVENTORY IS CONDUCTED AT LEAST
12 ONCE EVERY 30 DAYS.

13 (F) THE SECRETARY MAY MAKE AVAILABLE TO A FEDERAL, STATE, OR
14 LOCAL LAW ENFORCEMENT AGENCY ANY INFORMATION THAT THE SECRETARY
15 OBTAINS UNDER THIS SECTION RELATING TO THE IDENTITIES OF PERSONS WHO
16 HAVE UNLAWFULLY PURCHASED OR RECEIVED FIREARMS.

17 (G) THE SECRETARY MAY INSPECT THE INVENTORY AND RECORDS OF A
18 LICENSED DEALER AT ANY TIME.

19 (H) (1) THIS SUBSECTION DOES NOT APPLY TO A VIOLATION OF
20 SUBSECTION (E) OF THIS SECTION.

21 (2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A
22 CIVIL PENALTY NOT EXCEEDING \$1,000 IMPOSED BY THE SECRETARY.

23 (3) FOR A SECOND OR SUBSEQUENT OFFENSE, A PERSON WHO
24 KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND IS
25 SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT
26 EXCEEDING \$10,000 OR BOTH.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2010.